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TO: <b>John O. Marsh, Jr.</b>	<input checked="" type="checkbox"/> ENVELOPE (S)
<b>Counsellor to the President</b>	<input type="checkbox"/> PACKAGE (S)
<b>The White House</b>	OTHER
<b>Washington, D.C. 20500</b>	DATE AND TIME OF PICK-UP
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CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

17 SEP 1975

John O. Marsh, Jr.  
Counsellor to the President  
The White House  
Washington, D.C. 20500

Dear Jack:

Senator Muskie recently introduced S. 2170, the "Congressional Right to Information Act." In view of the developments with the Pike Committee last week, I thought this would be of interest to you. I am attaching a very brief summary, a more expanded section-by-section summary, and a copy of the bill itself.

We have already received overtures from the Government Operations Committee to testify on this legislation. I have raised this with the Director, and it is believed that in light of our current problem with the Pike Committee, it would not be appropriate for the Director to appear himself. However, because this legislation really centers on the question of Executive privilege, it would appear that the Administration would want a spokesman to give testimony on this issue. This is especially true because enactment of the bill as it stands could result in the President personally being drawn into direct confrontation with congressional bodies and into constitutional litigation.

The Office of Management and Budget has been in touch with us and has requested our views on the bill by 19 September, and is apparently relying on various agency responses in developing a position on this legislation.

Sincerely,

SIGNED

George L. Cary  
Legislative Counsel

Enclosures

Distribution:

Orig - Addressee  
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1 - OLC Chrono

OLC:WPB:sk (17 Sept 75)



Summary of S. 2170, the "Congressional  
Right to Information Act"

The head of every Federal agency must keep each committee of Congress fully and currently informed on matters within that committee's jurisdiction. Federal officers and employees must produce all information requested by a committee or subcommittee, unless expressly instructed by the President to withhold such information. If the Federal officer or employee withholds information on his own or if a congressional body believes it needs such information regardless of the President's instruction to withhold it, the officer or employee may be subpoenaed. If the officer or employee refuses to comply with the subpoena, a privileged resolution shall be introduced in the House of Congress concerned, and if agreed to the affected congressional body shall institute a civil action in U.S. district court to enforce the subpoena.

Appropriate measures to insure the confidentiality of information provided Congress shall be taken if the Federal agency providing it and the congressional body desiring it agree that the information requires protection. The respective Committees on Standards and Conduct shall investigate any breach of confidentiality and recommend appropriate action.

Section-by-Section

Amends the Legislative Reorganization Act of 1970 by adding the following new sections:

Sec. 341--INFORMING CONGRESSIONAL COMMITTEES--

(a) The head of every Federal agency shall keep each committee of the Congress and the subcommittees thereof fully and currently informed with respect to all matters relating to that agency which are within the jurisdiction of such committee or subcommittee.

(b) The head of a Federal agency, on request of a committee or subcommittee or two-fifths of the members thereof, shall submit any information "relating to any matter within the jurisdiction of the committee or subcommittee."

Sec. 342--PRODUCTION OF INFORMATION--

An officer or employee of the United States, summoned to testify or to produce information or documents before either House, a committee or subcommittee of Congress, shall produce all information requested unless the President formally and expressly instructs him in writing to withhold such specific information setting forth the grounds for such instruction.

Sec. 343--SUBPOENA OF INFORMATION--

If a House of Congress or a committee determines that an officer or employee of the U.S. has failed to produce information requested where the President has not instructed that the information be withheld, or determines, upon consideration of a Presidential instruction, that the information is needed to exercise a legislative function, it shall subpoena the officer or employee requiring him to provide the information requested. If the officer or employee does not comply

with the subpoena, the chairman of the committee or the majority or minority leader shall institute a civil action in U.S. District Court for the District of Columbia to enforce the subpoena if authorized by a resolution of the House concerned.

Sec. 344--JUDICIAL REVIEW--

The U.S. District Court shall have power to issue a mandatory injunction or other order as may be appropriate.

Sec. 345--PROTECTION OF INFORMATION--

(a) Each House, committee and subcommittee of Congress shall take appropriate measures to insure the confidentiality of any information made available to it which, in the judgment of the providing agency and the receiving body, requires protection against disclosure which would endanger (1) personal privacy, (2) trade secrets, or (3) the conduct of the national defense, foreign policy, or law enforcement activities.

(b) The Committees on Standards and Conduct shall investigate any breach of confidentiality of information by a member or employee of the House concerned and shall recommend appropriate action such as censure or removal from office or position.

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Office of Legislative Counsel  
Washington, D. C. 20505

Telephone:

17 September 1975

**TO: Mr. Les Janka**  
**National Security Council**  
**Washington, D. C.**

**Les:**

**Per our conversation.**

*LS*  
  
**Deputy Legislative Counsel**

**Att.**

The attached was the 11 February 1975 transcript before the Arms Control Subcommittee of Senate Armed Services on SALT ambiguities.

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